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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,501	04/04/2006	Joerg Dantlgraber	127445	3554
25944	7590	06/08/2007		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 06/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,501

Applicant(s)

DANTLGRABER, JOERG

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/27/06 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/27/06</u> | 6) <input type="checkbox"/> Other: ____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the position and pressure sensors (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 1-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 1 "in particular" is confusing, since it is unclear whether the phrase following it is part of the claim limitations or not.

Claims not specifically mentioned are indefinite, since they depend from claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 9 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by EP 1,310,346. EP 1,310,346 discloses a drive mechanism comprising a hydraulic force transmitting element having primary and secondary units; wherein the primary and secondary units each have a differential piston, whose large effective areas (12, 26) jointly define a cylinder chamber (along with passage 19) and whose small effective areas (28, 14) are in hydraulic communication with each other, via an adjusting valve (56); wherein a spindle drive (20) drives the piston of the primary unit; and a pre-tensioning means, being an accumulator (94), subjects the cylinder chamber to a pre-tensioning pressure, through a pre-tensioning valve (96).

Claims 1, 2, 4, 6, 9 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by De 10,143,013. De 10,143,013 discloses a drive mechanism comprising a hydraulic force transmitting element having primary and secondary units; wherein the primary and secondary units each have a differential piston (12, 26, respectively), whose large effective areas (22, 32) jointly define a cylinder chamber (along with passage 34) and whose small effective areas (24, 30) are in hydraulic communication with each other; wherein a spindle drive (16, 20) drives the piston of the primary unit; a pre-tensioning means, being an accumulator (52), subjects the cylinder chamber to a pre-tensioning pressure, through a pre-tensioning valve (54); and a pressure sensor (44) measuring the pressure in the cylinder chamber.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

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A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 5 is and are rejected under 35 U.S.C. § 103 as being unpatentable over De 10,143,013 or EP 1,310,346 in view of Heinrick et al. De 10,143,013 and EP 1,310,346 each disclose all the elements of claim 5, as discussed in the above rejections; but does not disclose a displacement valve controlling a hydraulic connection between the annular chamber of the primary unit and the cylinder chamber.

Heinrick et al teaches, for a drive mechanism comprising a hydraulic force transmitting element having primary (12) and secondary (28) units; wherein the primary and secondary units each have a differential piston, whose large effective areas are in hydraulic communication with each other (via passage 24) and whose small effective areas are in hydraulic communication with each other, (via passage 26); that a displacement valve (36, 38) controls a hydraulic connection between the annular chamber and a chamber formed by the large effective area of the secondary unit, for the purpose of synchronizing the piston of the secondary unit with the piston of the primary unit (column 2 line 535-55).

Since De 10,143,013 or EP 1,310,346 and Heinrick et al are both from the same field of endeavor, the purpose disclosed by Heinrick et al would have been recognized in the pertinent art of De 10,143,013 or EP 1,310,346. It would have been obvious at the time the invention was made to one having ordinary skill in the art to use a displacement valve to control a hydraulic connection between the annular chamber and a cylinder chamber of De 10,143,013 or EP 1,310,346, as taught by Heinrick et al, for the purpose of synchronizing the piston of the secondary unit with the piston of the primary unit

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Conclusion

Claims 7, 8, 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
June 5, 2007